

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Eric David Jeter,	)	
formerly 3288299,	)	
	)	
Plaintiff,	)	Civil Action No. 0:07-857-GRA-BM
	)	
v.	)	
	)	
Captain O'Neill,	)	
Lexington County Detention Center;	)	<b>REPORT AND RECOMMENDATION</b>
Tonia Stevens,	)	
Director, Prison Health Services Inc.;	)	
Major James E Harris,	)	
Director Lexington County	)	
Detention Center; Captain J B Quig,	)	
Lexington County Detention Center;	)	
Nurse Kristin Marzol, Prison Health	)	
Services Inc.;Officer Aeschbacher,	)	
Lexington County Detention Center;	)	
Sgt Pfannenstiel; Mr. John W Tate;	)	
Lt Kevin Jones,	)	
	)	
Defendants.	)	
_____	)	

The pro se Plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On July 19, 2007, the Defendants filed a motion for summary judgment. By order of this Court filed July 20, 2007, pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Plaintiff was advised of the dismissal and summary judgment procedures and the possible consequences if he failed to respond adequately. However, despite this extension and explanation, the Plaintiff elected not to respond to the motion.

As the Plaintiff is proceeding pro se, the court filed a second order on September 5, 2007, giving the Plaintiff an additional ten (10) days in which to file his response to the Defendants' motion

for summary judgment. The Plaintiff was specifically advised that if he failed to respond, this action would be recommended for dismissal with prejudice for failure to prosecute. Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978), Rule 41(b) Fed.R.Civ.P. The Plaintiff still did not respond, and has therefore failed to indicate that he wishes to proceed with this case or to prosecute this matter in any way.

Accordingly, it is recommended that this action be dismissed with prejudice for lack of prosecution.

The parties are referred to the Notice Page attached hereto.



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Bristow Marchant  
United States Magistrate Judge

Columbia, South Carolina

September 20, 2007

### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4<sup>th</sup> Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk  
United States District Court  
901 Richland Street  
Columbia, South Carolina 29201

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).